IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

RICHARD COOEY, ET AL.,	:	
	:	
plaintiffs,	:	HIGHLY CONFIDENTIAL
	:	
vs.	:	Case No. 2:04-CV-1156
	:	
TED STRICKLAND, ET AL.,	:	
	:	
defendants.	:	

- - -

Deposition of ROSEANNA CLAGG, a witness, called by the plaintiffs under the applicable Ohio Rules of Civil Procedure, taken before Jennifer L. Berry, a notary public in and for the State of Ohio, pursuant to notice and stipulations of counsel hereinafter set forth, at the Southern Ohio Correctional Facility, Lucasville, Ohio, commencing on Friday, October 2, 2009, at 1:55 p.m.

- - -

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On behalf of the defendants.

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FRIDAY AFTERNOON SESSION
October 2, 2009

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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of ROSEANNA CLAGG, a witness, called by the plaintiffs under the applicable Ohio Rules of Civil Procedure, may be taken at this time in stenotype by the notary; that said deposition may thereafter be transcribed by the notary out of the presence of the witness; that proof of the official character and qualification of the notary is waived; that the examination, reading and signature of the witness to the transcript of her deposition are expressly waived by counsel and the witness; said deposition to have the same force and effect as though signed by the witness.

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ROSEANNA CLAGG
being by me first duly sworn, as hereinafter certified, deposes and says as follows:

EXAMINATION

BY MR. SWEENEY:
Q Good afternoon, ma'am. How are you?
A Hi.
Q I'm Tim Sweeney and I represent a couple of the plaintiffs in the lawsuit. And Mr. Allen Bohnert is here, as well, today. We are here to take your deposition; do you understand that?
A Yes.
Q And your name is Roseanna Clagg, correct?
A Yes.
Q Why don't you state your name for the record?
A Roseanna Clagg.
Q All right. And you are an employee here at the Southern Ohio Corrections Facility; is that correct?
A Yes, sir.
Q And you are the Acting Healthcare Administrator; is that right?
A That's correct.
Q And you have been deposed before in this

litigation, I understand?
A **Yes.**
Q All right. So you know a little bit about how this process works?
A **(The witness nodded affirmatively)**
Q Okay?
A **Yes, I do.**
Q And you know one of the rules is you need to use words.
A **Not shake your head, huh?**
Q Not shake your head. Good. If you don't understand a question, please tell me.
A **Okay.**
Q And if you need to take a break at any time, we can do that, okay?
A **Okay.**
Q Have you done anything today to prepare to testify?
A **No.**
Q Did you review any documents?
A **No.**
Q Did you meet with anyone?
A **Did I what now?**
Q Meet with anybody.
A **No.**

Q Did you discuss your testimony with anybody before today?
A **No.**
Q Okay. I'm curious, how long have you been the Acting Healthcare Administrator?
A **Since August the 1st of this year.**
Q '09. And you replaced somebody; is that right?
A **Yes.**
Q And who did you replace?
A **Rhonda Stalnaker.**
Q Okay. And she retired; is that right?
A **No. She quit.**
Q She quit?
A **Yes.**
Q Did her decision to quit have anything to do with the executions?
A **Not that I know of.**
Q And at that point you became the active HCA; is that what you call it?
A **Correct.**
Q And do you have any ambition to be the full-time HCA some day? Is that your hope or desire?
A **I am going to apply for the position when it gets posted, yes.**

Q Is that how it works, it will be posted internally?
A **Yes.**
Q And then other people throughout the state who work with the DRC can a apply, as well; is that right?
A **Yes. That's true.**
Q Any idea when it's going to be posted?
A **No, sir.**
Q But it is your understanding at some point it will be posted?
A **Yes.**
Q And you are hoping that you will be successful in getting the position?
A **Yes.**
Q How long have you been here working at this particular prison at Lucasville?
A **21 years.**
Q And you're a Registered Nurse; is that correct?
A **Correct.**
Q You have an Associate's Degree in Nursing?
A **Yes.**
Q Any nursing experience before coming here?
A **Yes.**
Q And I imagine you have testified about that at

your last deposition, I would imagine, didn't you?
A **I don't remember.**
Q You don't remember?
A **There was --**
Q Have you worked at any other prisons besides this one?
A **No.**
Q As the HCA, or the Acting HCA, is it your responsibility to oversee the medical department?
A **Yes.**
Q And how many people do you oversee?
A **How many different staff members?**
Q Let's start with that.
A **Is that what you are asking?**
Q Yes.
A **I think we have like 12 RNs, five LPNs, a phlebotomist, a diet tech, a pharmacy tech. There's three HITs.**
Q What does that stand for?
A **Health Info Techs.**
Q Okay. Anything else that you can think of?
A **Excuse me?**
Q Is that about it, or is there anything else?

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A Yes, other than the contract people that we have.
Q And how many contract people do you have?
A We have one podiatrist and one optometrist, one x-ray tech, we have one full-time physician and at times we have a part-time physician for a physician. I think I said that right.
And in the dental there is one full-time dentist that will start Monday full-time. Other than that, we have had part-time. And there is three other -- one dental hygienist and two dental, like, assistants.
Q Okay. And those positions that you just identified, those are all contract based?
A Yes.
Q All right. Those people would not technically be employees of the State or the prison; is that right?
A That's correct.
Q Okay. The full-time position; is that Dr. Morford?
A Yes.
Q And how long has she been a full-time doc here?
A I want to say March or April.
Q Of?

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A Of '09. But I'm not exactly sure on that date.
Q And is she on some kind of a contract basis?
A Yes.
Q With the State, that you know?
A Yes.
Q Do you -- are you involved in hiring her or selecting her?
A No.
Q So she is selected by other people?
A Yes.
Q Somebody in central office, is that how that it works?
A Yes.
Q And then you are just informed that this is going to be the new doc at Lucasville?
A Correct.
Q There's also, you said, a part-time physician?
A Well, we are allowed one-point -- allotted 1.5 physicians, but we don't have a full-time point-five doctor. We have another doctor that comes in maybe every other week, but that's just periodically. That's not something that's basically all the time.
Q Okay. And is that Dr. Bautista?
A Correct. She had been the point-five.

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Q And when you say point-five, that's 50 percent, or half?
A Yes.
Q A half-time physician?
A Yes.
Q So did you say you are allotted 1.5 physicians?
A Yes. But that's the full-time physician, and the point-five is what Dr. Bautista works like every other week.
Q And how long has Dr. Bautista worked every other week?
A I am thinking that she came like in July and August, but she just works the part-time, so I think it was like the end of July. And I don't have the exact dates, to be truthful. I don't have the exact dates of knowing, but that's the time frame that she was here before.
Q We had her here yesterday. She testified -- she said she thought that she's been here about a year. Is that --
A She has been here off and on. She has worked here before. Like, when we've needed her, she has come in. And then she has worked at other institutions and then she comes back to us when the need is, so she is not always here.

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Q I understand. Does the "about a year," is that about right to you, or not?
A I guess that maybe, before, she was here last year, but I don't know the dates or anything like that.
Q What is her schedule, do you know? Right now. Today.
A Right now, she works four 10-hour shifts and she's here every other week.
Q Okay. And that goes back -- that type of schedule goes back to you're thinking at least July; is that right?
A Yes.
Q And we're now in, what, October; correct?
A Yes.
Q So the last three or four months, anyway?
A Yes.
Q Okay. Were you involved in selecting her or hiring her?
A No.
Q Do you know who does that?
A It is in Columbus.
Q All right. So as to who her contract is with or any of that, do you know any of those details?

A **I don't. I believe the name of the company that she works for is Jackson & Coker.**
Q Jackson & Coker. And what is that?
A **That's just a company's name, and I think that I'm pronouncing that correctly.**
Q And you know that, why? Is that because that's who the checks are made out to? Or how do you know that?
A **Well, because we have the contract paper that comes in that says that.**
Q Okay. All right. And so as the Acting HCA, are you then the supervisor of all of the people that work in the medical department?
A **Yes.**
Q And does that include these contract physicians?
A **Yes.**
Q And these contract dentists and the like?
A **I didn't hear you?**
Q The contract dentists and the like?
A **Yes.**
Q All right. I gotcha. So Dr. Bautista then reports to you here at the prison?
A **Yes.**
Q You were present for the Broom attempted

execution on September 15; is that correct?
A **Yes.**
Q And, if you could, just tell me what your role is, or was, on that day?
A **My role is just to carry the -- deliver the medication to J-1.**
Q Okay. And J-1 is that area right off the Death House where the team congregates from time to time during the --
A **Yes. It's in that area there.**
Q All right. And what time of day did you do that on the 15th of September?
A **I am thinking it was a little before or after 8 AM.**
Q Okay. And do you do that alone or how does that work?
A **This time another person walked across the yard with me when I did that.**
Q And who was that? You don't have to give me a name. Was it another nurse or somebody that works for you or somebody on the team?
A **It was a team.**
Q Was it the phlebotomist?
(Attorney-witness discussion)
A **No. 9.**

Q So the female phlebotomist; is that correct?
A **Yes.**
Q She is somebody that actually works for you; is that correct?
A **Yes.**
Q I gotcha. So she accompanied you that morning with the medications?
A **Yes.**
Q Tell me what you did. You have the medications. You are walking across the yard. Where do you go?
A **We go in the back of J-1.**
Q Okay.
A **And just go up in the gate and up the steps there to where they have the medications, where the -- like, I guess you can call it in the back of J-1, where the Death House is.**
Q All right. Do you actually -- have you heard the term "equipment room"?
A **I don't know if I have heard it called that or not.**
Q There is a room where the medications for the executions are actually administered from. In other words, where the guy that pushes the drugs sits and administers the drugs during the

execution?
A **Okay.**
Q That room is called the equipment room.
A **Okay.**
Q Have you ever been to that room?
A **Yes.**
Q Did you go to that room that day?
A **Yes.**
Q Is that what you are referring to as J-1?
A **Well, J-1 is like the whole area right there.**
Q Okay.
A **And then the -- where the cells are in J-1, where the inmates are normally, and then back behind that is like the Death House. I didn't know what the rooms maybe were all called.**
Q All right. Fair enough. But you actually went into the Death House then?
A **Yes.**
Q With the medication?
A **Yes.**
Q And then went into that room called the equipment room?
A **Yes.**
Q And that room has a window that you can see into the actual execution chamber?

A **Yes.**
Q And what do you do there, or what did you do there?
A **I just watch the medication being drawn up and put into the syringes.**
Q And who was present for that? And, well, obviously no names. I want to make sure. I know you know that. But I am just looking for the numbers. Was Team Member 9 there, the phlebotomist?
A **No. 17.**
Q Okay.
A **And No. 21.**
Q Okay. And was Team Member 9 there or did she leave?
A **You know, I don't remember that, whether she was in the room.**
Q Okay. Do you remember who drew up the medication that morning?
A **Yes.**
Q Which guy? Which number? 21, I think, has gray hair and beard. Some would say wavy hair.
A **No. 21.**
Q Okay. So 21 drew it up?
A **Yes.**

Q How long did that take?
A **I do not have an exact time on that.**
Q Half an hour? 15 minutes? 45 maybe? Just a rough...
A **I don't have an exact time. Maybe 15, 20 minutes. I don't really have an exact time on that. I really never, you know, never looked at my watch, to be truthful, and look at that. I just haven't done that.**
Q Okay. But your best estimate is about 15, 20 minutes?
A **I will just say that because I don't have an exact time.**
Q Fair enough. What did you do next?
A **I left that room and I went out into J-1, through the door there to J-1.**
Q Okay. And what did you do in J-1?
A **I just sit and -- I just sit there and wait.**
Q Wait for what?
A **Whatever they need. If anybody needs anything medically, I'm there. Other than that, my role is -- I just sat there and waited until they needed anything.**
Q I gotcha. So on a day when there is an execution going on here, I take it your typical

function is to bring the medication over, as you described; correct? Right?
A **Correct.**
Q Observe the mixing or the drawing of the medicine by the team members; correct?
A **Yes.**
Q And then go sit in J-1 and wait to be there in case there is any need for your nursing assistance?
A **Correct.**
Q All right. And that's what you did the morning of Mr. Broom's execution date?
A **Yes.**
Q All right. And do you recall how long you ended up sitting there in J-1? Was it hours? Because we know this execution was postponed and didn't start until after noon or maybe even closer to one o'clock, maybe even later. How long did you sit?
A **All day. It just seemed like all day. I don't remember the exact time. But I was there -- I stayed the whole time.**
Q At some point -- who were you with? Were you there by yourself or are there other people there with you?

A **There is other people in that area.**
Q Are those people on the execution team or not?
A **Not everyone, I don't believe, is on the execution team.**
Q Who other -- who else would be there besides you and people on the execution team?
A **There was a coroner.**
Q Okay. The coroner from the county?
A **Um-hum. (Affirmative)**
Q Correct?
A **And I don't know if the other people in that area are on the team or they are not on the team. And I really couldn't tell you everybody that was even back in there because I basically just sit and stayed by myself, and I don't really talk that much to anyone. I just -- I am just there.**
Q Do you have a book? Are you reading a book? I mean, what are you doing?
A **No. I will talk to people. But, no, I don't bring a book or anything like that, no.**
Q Okay. But, I mean, because it sounds like you are in for a long wait.
A **Yes.**
Q So you come, you sit down and you just wait?

A **Yes.**
Q At some point were you made aware that the process was going to be delayed, in other words was not going to start around 10 o'clock, the time it is typically going to start?
A **Yeah. I mean, I knew that it wasn't starting, I don't know if anyone ever said anything, but I don't know how to answer that one.**
Q Well, I mean, how are you normally informed when the process starts?
A **I am not necessarily informed of that at all. I mean, I am just sitting there waiting on someone to -- if they need anything. I am not -- no one comes to inform me of anything.**
Q I gotcha. Okay. So as to when the process is going to start, no one sort of let's you guys in the J-1 area know, hey, we're about to start?
A **No, no one said anything.**
Q I know there is a monitor or a camera in the inmate's holding cell. Are you aware of that?
A **Yes.**
Q That there is a camera above the bed?
A **Yes.**
Q It broadcasts a closed circuit image to TV

screens in various rooms in the prison; correct?
A **Yes.**
Q Is there a TV screen there in J-1?
A **Yes, there is, in that equipment room.**
Q Okay. Well, in the equipment room, right, where the drugs are --
A **Right. But not in the separate J-1, no. Not in J-1.**
Q Not in J-1. So when you are sitting and waiting, you and the coroner and other people, there is no TV screen there that you can watch?
A **No. No, there is not.**
Q Okay. Good enough. Okay. So at some point -- what was the first thing that happened while you were in J-1 associated with the execution that you can remember?
A **The first thing I remember about --**
Q I mean, you were there -- it was supposed to start at 10, right?
A **(The witness nodded affirmatively.)**
Q It didn't start at 10, correct?
A **I don't know if it did or not. I was back in J-1, where I wasn't in this area here. (Indicating)**

Q When you went to sit in J-1, were you in the mindset that it was going to be starting at 10?
A **Well, I know around the time that it starts, yes. But after --**
Q Because that's the time they always start?
A **They normally start there.**
Q Exactly. So when you went into J-1 after delivering the medicine, it was your belief that the process was going to start at about 10?
A **Yes.**
Q All right. And no one ever came to tell you or to tell the people in J-1, hey, we've been delayed, or anything like that, as far as you recall?
A **They might have later, but I don't know if it was right around the 10 o'clock, or I don't know what time. I mean, somebody might have said that -- but I can't remember the words or anything, or the time.**
Q Okay.
A **I mean, I don't remember that.**
Q Do you remember anything about -- I am just trying to get what happened. What is the first thing that happened that let's you believe that

the process had started?
A **That I believe when the process was going to start.**
Q Or that it had already -- or that it actually started. What was the first thing that happened?
A **I don't know -- maybe I don't know what you mean.**
Q Okay.
A **I was just --**
Q You are sitting there in J-1, right?
A **(The witness nodded affirmatively.)**
Q Waiting for the execution to start and to be called if you are needed, right?
A **Yes.**
Q That's your role?
A **If there is anybody that needs anything medically, yes.**
Q All right. Did any -- did anybody come to you at any point in time while you were in J-1 and say, hey, we need you?
A **Said they need me?**
Q Yes.
A **Yes.**
Q Who?

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A **Warden Kerns.**
Q Did he come over personally?
A **Yeah. He -- yes.**
Q And approximately what time of day was that?
A **I truly don't know. That was a very, very long day, and I don't know the time.**
Q Okay. Was it before noon or after noon?
A **I don't know. I truly don't know.**
Q But he came over to J-1, correct, the Warden?
A **Correct.**
Q By himself?
A **I believe so.**
Q And he found you, correct?
A **Yes.**
Q And he had a conversation?
A **Yes.**
Q What did he say?
A **He asked me if I would call and ask the doctor if they would come and maybe just look and see if there was maybe a suitable vein, not to do anything else other than just to look to see, maybe to assess the veins. It's not something that they had to do, but just ask if they would do that.**
Q So this is Warden Kerns now talking to you?

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A **Yes.**
Q Is it just the two of you having this discussion?
A **There was other people in J-1, but I don't -- I mean, I don't know if anyone was around when he said that to me, because, you know, it's a pretty big space. I don't know if anyone was around when he said that.**
Q Okay. All right. But as you sit here right now, do you remember anyone else being present? Anyone specific that you can recall?
A **No.**
Q So your recollection is you and Warden Kerns?
A **Yeah. Now, other people could have been there, but I don't --**
Q You are not remembering anyone?
A **No. I couldn't tell you.**
Q And I want you to tell me to the best you can the exact word the Warden used.
A **He asked if I would call over and talk to the doctor about coming over to assess the veins, not to do anything other than just to look to be able to see if there was a suitable vein. I mean, and I am not saying that those were the exact words that he used because I don't know**

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the exact words, but that's what he said. The only thing he said was for someone to come over to see if -- just to look to see if there was a vein there that could be used.
Q Did he tell you why he wanted you to do this?
A **Well, I assumed that they couldn't, you know -- that somebody else couldn't do it. But, you know, that is just me, you know.**
Q Right. And I understand, and I want to ask you a different question. You may have had an assumption as to why he was asking. My question, though, is did he tell you why he was making that request? Did he say, "Rosie," or "Nurse," or "Miss Clagg, here is why I need this," anything like that?
A **I don't remember him saying that.**
Q Okay. So you don't have any recollection of the Warden giving you any explanation as to why he was asking you to call the doctor?
A **I cannot recall the words he used on that, no.**
Q In your mind, at least -- whether he said it or not, but at least in your mind you were thinking that they must be having problems getting access to the veins; is that right?
A **Yes.**

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Q Of this prisoner?
A **Yes.**
Q So what did you do?
A **I called the infirmary and talked to Dr. Bautista and told her his request and, you know, told her that it was not something she had to do, it was just a request. And she said that she would come over.**
Q And did you tell her that the request was coming from the Warden?
A **I would have had to say that, but I can't remember the exact words that I used to her, either.**
Q Okay. But your best recollection is that you would have told her that the Warden has asked me to called and ask you to do this?
A **Yes.**
Q All right. And when you made the call, is there a phone there in J-1?
A **Yes.**
Q So you were able to just go to the phone in that room?
A **Yes.**
Q Pick it up and dial the medical room or whatever, correct?

A **Correct.**
Q What is the name of the place you would have dialed?
A **I called to the doctor's office. I call the infirmary, and it was the doctor's office number that I called.**
Q Okay. And did you know Dr. Bautista was working that day?
A **Yes.**
Q Okay. So you are probably in charge of the scheduling and all of that, I imagine?
A **I knew that she was there.**
Q Because this was a Tuesday, right?
A **Yes.**
Q And that would have been one of the days, the four days during the week that she would be working?
A **Yes.**
Q All right. And it would have been during her 10-hour?
A **Excuse me.**
Q It would have been during one of her 10-hour shifts?
A **Yes.**
Q Probably even at the beginning or a little bit

into her 10-hour shift?
A **Yes.**
Q All right. So when you called over there, did she answer the phone or did somebody else answer the phone, or do you remember?
A **I think the nurse answered the phone.**
Q There has been a nurse that we've talked about named Tom. Is that the nurse that answered.
A **He was, yes, working with her that day, yes.**
Q Okay. And then, do you recall if you said anything to the nurse?
A **The only thing I said to him was that I needed to talk to Dr. Bautista.**
Q Okay. Did you say anything else to him?
A **No.**
Q Did you ask him to bring her over or tell her that you were going to need him to bring her over, anything like that?
A **I don't think I told him, but I told her that, you know, that if she -- that Tom would bring her over, because she didn't know where it was, I am sure. She is not that familiar with the institution.**
Q Do you know if she had ever been to the Death House?

A **I don't think she ever had.**
Q Okay.
A **That's not an area that she goes into.**
Q All right. So you call over to the infirmary. Tom answered, correct?
A **Yes.**
Q You told Tom to get you Dr. Bautista?
A **Yes. I first asked for Dr. Morford because she was supposed to also be in that day.**
Q Okay.
A **And they said that she had not showed up.**
Q Okay.
A **And then so then I asked for Dr. Bautista.**
Q So if Dr. Morford had been there, would you have asked her --
A **She probably would have been the one in that room. That was Dr. Morford's doctor's office.**
Q I see.
A **And she would have been there, but they said she didn't show up that day. She had called in sick.**
Q So if she had been there that day, would you have asked her to come over?
A **Yes.**
Q I see. Okay. But Dr. Bautista was there that

day, correct?
A **Correct.**
Q So you made the request to her?
A **Yes.**
Q All right. And did Dr. Bautista say anything to you on the phone?
A **I don't remember the exact words that she used. She said she would come over, but I don't remember the exact words that she used.**
Q Did you tell her, that, you know, that the reason that you were asking her to come over was because there was an execution in process and they were having problems getting the veins?
A **I just asked her if she would come over and look to see if there was a suitable vein, that she didn't have to do anything other than just to look.**
Q Did you actually say those things to her?
A **Yes, but I don't know the exact terminology. I don't know the exact sentence I said that in, but that was what I said to her.**
Q Are you sure you told her that she didn't have to come over and do anything other than look?
A **That's correct. I did say that.**

Q But you did want her to come and look?
A I asked her if she would do that.
Q Okay.
A And I told her that, you know, it's not something you have to do. It's just, you know, that is just a request.
Q Okay. A request by the Warden?
A Yes.
Q All right. And she -- I guess my question, though, is putting aside all of the various, you know, the specific words you might have used, but did you tell her at all during this conversation that the reason that you were asking her to come over was because there was an execution in process?
A I don't think I used those words.
Q Do you think that she even knew that there was an execution going on, or that this was for an execution?
A Yes.
Q You think she knew that?
A Because on an execution day people have to park in the back.
Q Okay.
A And she has to go to the back and walk through

to get back up to the infirmary.
Q Okay. So it's generally known here when there is an execution that people are going to have to park in the back?
A On the execution day, yes.
Q So the employees all know when there is an execution day?
A Yes. There's signs posted and, you know -- she comes in, you know, she might not know it. If she wasn't there the week before, and she wouldn't have been, to the signs that are posted where to park, when she came, you know, they would direct her around to the back.
Q And that would have happened on that Tuesday morning?
A Yes.
Q Okay. So what happened next? You told her -- you relayed her the message, asked her to come over, the Warden wanted her to come and do this. Right?
A Yes.
Q And did she come over?
A Yes, she did.
Q And how long after your call?
A 10, 15 minutes.

Q It took her that long to get there?
A I did not time her, but she had to come through the back of J-Block and come through a door, and it took a while to get that door opened.
Q Okay. So you think it was about 10 or 15 minutes? I mean, I am asking your best recollection?
A Yeah. It was about that.
Q So where did she come?
A When she came into the J-Block area, do you mean?
Q I don't really mean anything. I just mean, where did she come? Where did you meet her?
A I met her at the door of J-Block.
Q Okay.
A Now, this is like where the other cells are up there.
Q Okay.
A Not like where I come in on the other side.
Q I see.
A She came like through the institution, maybe, through the institution to J-Block and through a door back there.
Q All right. So she didn't have to go outside?
A She did not come across the yard, correct.

Q So she come back in. Was she accompanied by anybody?
A Tom had brought her over.
Q And did Tom stay with her or leave?
A No, he did not.
Q So he left?
A He left.
Q And so you let her through the door; is that correct?
A I was there when the door opened, yes.
Q All right. And you greeted her?
A Yes. I took her in.
Q And what did you tell her at that point, if anything?
A Basically the same thing I had said on the phone, you know. She just said, like, she was scared because, you know, the whole -- just the whole process stuff, and she just basically said that she was scared.
Q Okay.
A And I told her that, you know, that I would be with her and, you know, that they had just wanted her to look. She didn't really have to do anything other than just to look. So I tried to say those things to her, basically

what I had said to her on the phone.
Q Just were just trying to make her feel comfortable?
A **Yes.**
Q Make her feel at ease?
A **Yes.**
Q Get her out of her fear?
A **Yes.**
Q Okay. And so what happened next. Did you walk with her, then, to the execution house, the Death House?
A **Yes.**
Q And into the actual area where the equipment room is?
A **Yes.**
Q And then down the haul to where the cell, the holding cell is?
A **Yes.**
Q Okay. So did you go with her the entire way?
A **Yes, I did.**
Q Okay. And then and tell me what happened.
A **I basically stayed -- I stepped right here in this doorway here. (Indicating) Like when you come through J-1's door and you turn to the right --**

Q Right.
A **-- I just stayed like in that area right there.**
Q There is a door you have to go through to get to the holding cell; is that correct?
A **Yes, and I was just basically standing right there.**
Q On which side of the door? The closer to the holding cell or closer to the equipment room?
A **The holding cell. I was like -- had stepped like inside that door right there. (Indicating)**
Q I gotcha. And that door is kept open during this process; is that right? That door is a swinging door, or is it one of those doors that goes, you know, back and forth on hinges? Do you know what I mean?
A **Opens this way, do you mean? (Indicating)**
Q Something like this kind of a door? (Indicating)
A **Yes.**
Q So it's a door that you just open like a regular door?
A **Yes.**
Q It is not like a cell door in any way?
A **No.**
Q No?

A **No.**
Q And so that door is kept open on these execution days?
A **I don't know that.**
Q But it was open then when you got there?
A **I don't know when we walked up there if somebody opened that door --**
Q Okay.
A **-- or whether it was open.**
Q But it was open. You went through it?
A **Yes.**
Q And then immediately in front of you would be the holding cell where Mr. Broom was?
A **Correct.**
Q A few feet away, correct?
A **Excuse me?**
Q A few feet away?
A **Yes.**
Q So you waited out there inside that door, correct --
A **Yes.**
Q -- as you've described?
A **Yes.**
Q And what did Dr. Bautista do?
A **She basically just stood there for, you know --**

basically just looking for a while. She just kind of stood back and, you know, she kind of like was just looking back from a distance.
Q Okay. Did anyone say anything to her?
A **Not that I recall.**
Q Was the Warden in the vicinity at this time?
A **I don't think so. But I don't know if anyone was like behind me or anything like that, I mean.**
Q Okay.
A **But he wasn't in this little area here. (Indicating)**
Q You are talking about the area in front --
A **Like right inside of the door.**
Q In that front area of the holding cell?
A **Yes.**
Q Okay. Who was in that area, if you can remember?
A **Mr. Voorhies was standing there.**
Q Okay. Any other -- was there any other leaders. Like Director Collins, was he there?
A **No, I don't think -- I think it was just Mr. Voorhies standing there..**
Q Mr. Voorhies. What about the Team Leader, the Major, was he there?

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A **He was in the cell.**
Q So he was inside the holding cell with Mr. Broom; correct?
A **Yes.**
Q And you could see into the holding cell, couldn't you, from where you were? Or not?
A **I couldn't see a lot because it was just the doorway, and then there is that wall and then a window.**
Q Okay.
A **You can just basically see like the people here, and I really couldn't tell you other than the Major who even was in that room.**
Q Okay.
A **And then there was, you know, people around him, and I really -- I mean, I really didn't have a clear shot of, you know -- I didn't see a lot of stuff in the room other than just where I was standing. And I was kind of standing like back -- the doorway was here. I was just kind of standing like here. (Indicating) Because I had stepped in and, you know, it was like she was right here, so I was to the side, but...**
MR. BOHNERT: Do you want to

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use -- Chuck, do you mind showing the witness Exhibit 40?
MR. WILLE: I will do that.
MR. BOHNERT: Exhibit 40 is a layout of the actual death chamber, as we called it. As I understand it --
Do you mind if I approach the witness, Chuck?
MR. WILLE: No, go ahead.
Q (By Mr. Sweeney) As I understand it, Nurse Clagg, what you did that day is come through this area here, through this front door here right above the word "hallway"; correct? (Indicating)
A **Yes.**
Q And you made a right, correct?
A **Yes.**
Q And went through this door that I am pointing to, correct? (Indicating)
A **Yes.**
Q The first door on the right as you enter, as you -- the first door after you make a right from that hallway?
A **Correct.**
Q All right. And that door was open or you

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opened it?
A **I did not open it, I know that.**
Q But it was open? Somehow it got open?
A **Yes. I don't know if there was someone there with a key that let us through or, you know, but I know I did not open that door.**
Q Okay. And then you went into this area right here? (Indicating)
A **Yes.**
Q And the holding cell is right in front of you, correct?
A **Correct.**
Q And you stood around here, and you say it was basically right about here; is that correct? (Indicating)
A **No. It was about here. (Indicating)**
Q I gotcha.
A **Like, when you walk in the door, it is more to the left.**
Q I see. So once you walk in the door, you would be standing to the immediate left?
A **Yes.**
Q All right, So right about -- and we could make a mark on the exhibit, but why don't we use this -- just use this as -- mark it as an

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exhibit, and I will mark -- why don't you mark approximately where you think you were? Just put "RC", your initials?
A **(Witness complied)**
Q Now, that's the holding cell?
A **No. That's the holding cell. It's back here. (Indicating)**
Q Going through here and going through this door? (Indicating)
A **(Witness indicated)**
Q Okay. And so that's where you were standing. And where did the doctor go?
A **To -- into this area here. She was standing like right here. (Indicating)**
Q Why don't you put "CB" there for Carmelita Bautista.
A **(Witness complied)**
Q Where did you see Mr. Voorhies?
A **I think when I very first walked in here, he was standing like over here. (Indicating)**
Q Okay.
A **And then, you know, like I didn't stand in that one spot the whole time. I kind of like maybe moved a little bit. But then he like was over here, and we was just like in this area here.**

(Indicating)
Q Why don't you just put "EV" then where you think he was?
A Where he was to begin with or --
Q Well, it doesn't really matter, but where he was after you got there and got yourself stationed.
A (Witness complied.) I mean, like, he was right here -- he was like here and then, you know, we were just kind of like standing here. (Indicating)
Q Okay.
A And he was -- he had walked over there. (Indicating)
Q So he was to your left sometimes and to your right sometimes?
A Yeah. I mean, he just -- it is hard for me to know the exact -- yeah, I mean, that was the area that I was in. I didn't go anywhere else.
Q Anybody else in this vicinity, in the hallway in front of the holding cell, that you can recall, other than yourself, Mr. Voorhies and Dr. Bautista?
A That's correct.
Q And the Warden, you don't recall seeing him in

that area?
A No.
Q And you don't recall seeing the Director; is that correct?
A No.
Q Did you see the inmate? Mr. Broom?
A I could see in, like he was sitting up on the side of the bed or on like the side.
Q Okay.
A And I could just like see in through that window a little bit.
Q So were his feet facing the door then?
A Yes.
Q And his head was -- his face was facing the door, the door to the holding cell?
A Yeah. Basically that area there.
Q I gotcha.
MR. SWEENEY: Okay. Could we please mark this, then? This would be Exhibit 85.
MR. WILLE: Well, this is -- it's already 40, but you're saying to mark it again?
MR. SWEENEY: Yes.
- - -

EXHIBIT NO. 85 WAS MARKED
- - -
Q (By Mr. Sweeney) I am handing you what has been marked, Ms. Clagg, as Exhibit 85. Is this your notes as to essentially who you recall being positioned where on that date, September 15, '09?
A Correct.
Q So the blue pen marks -- let's just get rid of this, cross that out because you didn't make that. But the three blue initials are the initials that you made here on this document; is that correct?
A Yes.
Q All right. Fair enough. Okay. So did you see -- well, what happened then? So Dr. Bautista goes up to the cell door. Did she go into the cell?
A In the beginning she just stood like outside of there --
Q Okay.
A -- and was looking.
Q And how long did that last? How long was she standing there? Like a minute? Five minutes?
A Not very long at all. I mean, I don't know.

I mean, it wasn't very long to begin -- I mean, I don't know how long it was. A minute? I can't say the exact time.
Q Maybe a minute, maybe more?
A Maybe less.
Q Maybe less. Okay. What was she doing while she was --
A She was just looking. She was standing outside and just looking.
Q Okay. And then what happened?
A And then like they -- she must have walked in a little bit further into the cell -- because when I looked again -- and I wasn't staring at them the whole time. But when I looked again, she had -- like, she was sitting on a little stool because it was hard for her -- it must have been hard for her to get down and look.
Q Okay.
A So she did, and she got a little stool and was sitting on it. And I could just see the back of her, and as far as I know she was just looking, you know, but she did sit on a stool.
Q Did you observe where she was looking?
A Did I observe where she was --
Q Yeah. What was she looking at?

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A I think she was looking at his foot. I could not see his foot. I mean, but he was sitting on the bed and, you know...
Q Okay.
A And she was like on the stool.
Q I see.
A But -- so I assumed it was his leg. But from where I was standing, I could not see the leg, but that's what --
Q Okay.
A She had -- I basically could see her back.
Q All right. So you concluded that the doctor was looking at Mr. Broom's leg or foot?
A Yes.
Q Was anyone else around her, helping her, assisting her, or was she doing this by herself?
A There was other people in the room, but there was that wall, and I could not see if anyone was like down there.
Q Okay.
A I mean, like there was -- you know, like the Major was standing here, someone was standing here. (Indicating) But the people, if they were down here, I really didn't see because of

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the wall and her back, if anyone assisted her doing anything. (Indicating)
Q Did you see the phlebotomist in there at all?
A I don't know what the number was.
Q That's No. 9, the female phlebotomist that works for you.
A Yes.
Q And where did you see her? Where was she positioned?
A And I think that she was like standing here. (Indicating)
Q When you say "here," why don't you say like --
A Okay. Standing --
Q To Mr. Broom's left or right?
A It would be to his right.
Q To your left, as you look at?
A Correct.
Q Was she to the left of the doctor or to the right of the doctor?
A She was to the left of the doctor.
Q So as you look at it, she was standing to the left the doctor, Team Member 9?
A Yes.
Q Okay. And the Team Leader, was he to the left of No. 9, or where was he?

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A Are you talking about the --
Q The Major.
A He was standing like here, at the -- by the front of the bed there. (Indicating)
Q At the end of the bed where the feet would be if he was laying normally, so to speak?
A No, like the head of the bed.
Q The head of the bed where his head would be if he was laying down?
A Correct.
Q So he would have been on your right?
A That's correct?
Q And on Mr. Broom's left?
A Correct.
Q Okay. Fair enough. Do you know -- okay.
So you observed the doctor on the stool. Could you see anything at all as to what she was doing?
A Not in the beginning, when she first sat down there. I mean, the only thing, I knew that she was like looking at the veins or whatever.
Q Okay. And then what happened?
A And then I don't know if I kind of like stepped over a step or what, but then when I looked she did have a needle in her hand.

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Q Okay.
A I did not see -- I mean, it was like in her hand. I did not see that she did any insertion or anything.
Q Um-hum. (Affirmative)
A But she did have that.
Q In which hand did she have that, if you recall? Her left hand or her right hand?
A It would be her right.
Q Her right?
A You know, because when I was standing, it would be her right.
Q At this point, had you moved from the location to pick --
A I think I might have stepped over. I mean, I didn't stand in one spot. I mean, I was just kind of like -- I was just like right here. (Indicating)
Q And that would be, what, a little bit closer to the cell?
A I didn't get closer to the cell. I just like moved this way maybe to where the front where Mr. Voorhies was. (Indicating)
Q So you had a little bit better view into the cell?

A **Just enough to when I looked -- I mean, because I just like looked up and I did see the needle in her hand.**
Q What happened next?
A **I don't know what happened. I mean, there wasn't anything that -- I didn't see her stick him or anything, and it was almost like then she just stood up and walked out.**
Q Okay. Do you know whether she stuck him with a needle or not?
A **I did not see her stick him, no, I did not. I did see the needle in her hand, but I didn't -- from where I was standing, I really didn't see an insertion or anything like that.**
Q Whether she did or not, I guess, you don't know?
A **I don't know.**
Q She has testified that she did.
A **From where I was standing, I did see a needle in her hand, but I did not see her insert the needle.**
Q Okay. Fair enough. What else did she do? What happened next? You saw her with the needle in her hand. What was the next thing that happened?

A **Next thing I knew she had stood up and walked out.**
Q Okay. What happened? Where did she go?
A **We just walked back down that hallway, down this hallway here. (Indicating)**
Q Back the same hallway you had come from?
A **Yes.**
Q And did you exit that Death House area at that time and go back to the J-1 area, or what did you do?
A **We walked -- we walked -- exited out through the J-Block area, like where you go back toward the institution.**
Q Okay.
A **We go back out that way. We didn't go back out into the J-1. We went in J-1 where the cells are.**
Q Okay. But did you make that left to go -- I am just trying to -- I can't see --
A **I know. It is confusing.**
Q Here is where you guys were. This is the cell. You come in this way. Did you go back out that same way? (Indicating)
A **Yes. Yes. And we went this way and out through this area here where the cells are.**

Q Okay. So you and Dr. Bautista walked together back out towards the J-1 area?
A **Yes.**
Q All right. How far did you go with her? Did you take her all the way back to the medical area, or what?
A **No. Just back to the door that they opened, where Tom had been.**
Q Okay. So right back to where you had received her?
A **Yes.**
Q You let her go through that door and you let her go on her way?
A **Yes.**
Q And what did you do at that point?
A **Only thing I did was come back and come into the J-1 area, right there. (Indicating)**
Q Back to where you had been waiting?
A **Back to where I was to begin with.**
Q So you didn't go back into the holding cell area to see what was going on with Mr. Broom?
A **No, I did not.**
Q All right. Did you have any discussions or conversations with Dr. Bautista as you were walking to let her go back to her job?

A **No, I did not.**
Q Did she say anything?
A **No, I don't believe she said anything. I don't recall anything.**
Q Did she say anything about whether the veins were hard or easy, or anything like that?
A **No. I know she didn't say anything like that.**
Q You don't recall any discussions?
A **No, I don't.**
Q All right. What happened next? You went back to J-1. Did you go sit down again or?
A **I don't know if I sat down or I just stood up, but I was in that area.**
Q Okay. And then what happened next?
A **It was a while that we were back there, I don't know.**
Q Do you know what was going on with Mr. Broom at that time?
A **No. I didn't go back into that area. I just stayed in that one area.**
Q Other than that -- let me ask you this question. How long would you say you were out there in front of the holding cell with the doctor? Was it five minutes? Was it 10 minutes? How long would you say it was that

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the two of you were there in the Death House right there at the holding cell with the inmate?
A **I mean, five minutes. I didn't time it, but it wasn't very long. I do know that.**
Q Okay. Your best estimate is five minutes?
A **If I had to estimate it, yes.**
Q Okay.
A **Yes.**
Q Other than those five minutes, were you at the holding cell or with the inmate at any other time that day?
A **No.**
Q And I mean literally any time that day. From the beginning in the morning when you arrived at work until you left that day?
A **No.**
Q You only spent five minutes in the vicinity of Mr. Broom; is that correct?
A **Yes. Approximately five minute.**
Q Yeah, exactly. Those five minutes that we have just been talking about?
A **Yes.**
Q All right. At some point did you observe the Director and the Warden and others in that J-1

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area where you were sitting and waiting?
A **Yes, they did -- I had seen them come through where I was sitting, yes.**
Q At some point after you had let the doctor go, you know, walked her back and let her leave -- at some point after that, did you observe the Director and/ors in the J-1 area?
A **Yes. And they were in there.**
Q What were they doing?
A **They were just talking, but I wasn't involved in any of their conversations. I didn't hear any of their conversations. When I came back from taking Dr. Bautista up there, I mean, they might have been standing there talking, but I was not involved in the conversations and I didn't hear anything.**
Q I see. Okay. So you were -- you saw that there were people there having conversations, but you were not participating in it; correct.
A **No.**
Q Did you see if Team Member 9, the phlebotomist, was she there as part of that conversation; do you remember?
A **When I came back from taking Dr. Bautista up there, I do not recall her being there, but I**

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honestly don't even know who all was there.
Q In any event, you didn't hear anything that was being discussed or --
A **No. I am not involved in any of that conversation or anything else.**
Q I know you were not involved. Your testimony is you didn't hear anything?
A **I didn't hear anything, no.**
Q Did you have any idea what they were talking about?
A **Other than the fact that they couldn't, you know, get the IV started, I mean, you know. Everybody pretty much knew that, because I had the doctor come over.**
Q Um-hum. (Affirmative)
A **But other than that.**
Q Okay. Did anybody ask your opinion about what should be done or what ought to be attempted in view of the problems they were having with the IVs?
A **No.**
Q You were asked to call the doctor and the Warden made that request; is that correct?
A **Yes.**
Q Have you ever discussed that with the Warden,

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why he asked you to do that?
A **Why he asked me to do that?**
Q My question is have you discussed that with him at all since that happened?
A **I had talked to him after that.**
Q When? How long after?
A **Maybe last week or something like that.**
Q And tell me what your discussion was about.
A **It was just about that it was the, you know, the hard stick, couldn't get the IV started. It wasn't anything like any particular thing.**
Q Who said that, the Warden?
A **I don't know if he said that, or as we were talking.**
Q Was it just the two of you?
A **No.**
Q Who else was involved in that discussion?
A **I mean, another person was in the room. It wasn't anybody -- it wasn't anybody -- it was just in my office.**
Q Who else was in the room, it was another nurse?
A **Excuse me?**
Q Another nurse?
A **Yes.**
Q So another nurse?

A And they were just sitting there. We were just generally talking. It wasn't anything that, you know, that I recall all of the conversation.
Q I guess my question was, though, was any part of that discussion with you and the Warden addressed to the issue of why did you have me call the doctor, that kind of thing?
A No. No.
Q Did you ever ask him why he had you call the doctor?
A No. No, I didn't ask him that.
Q Have you spoken about this with Dr. Bautista at all since it happened?
A No.
Q Since --
A When I went back over that evening, she had already went home.
Q But since that day, have you spoken with her about that?
A No. I just talked to her I think yesterday. No, it was on the day that she come up here to see Mr. Wille --
Q Okay.
A -- that I told her that she had a deposition,

that they wanted her to talk to our attorney about a deposition.
Q Okay.
A She asked me "What?"
And I said, "It's about the execution." And I did not say anything else to her about it.
Q Okay. Did she ever complain to you about having you ask her to do this? I mean, why did you do this?
A No. I don't really talk to her.
Q Have you spoke to Dr. Morford at all about this?
A No. She was off that day.
Q Have you told her if she had been there she would have gotten that call and been asked to do this?
A I talked to her yesterday, I think, and said that -- because she wanted to know what Dr. Bautista was doing, because they were both there yesterday. And I told her that she had to do a deposition because she had been asked to come over to just like basically look to see if there was any veins that was accessible or anything, because she asked what she was being

seen for -- or what she was going for.
Q Okay. Did you tell Dr. Morford that you were actually trying to get her first and she wasn't there?
A Yes.
Q Did she have any response to that?
A No. Other than the fact that, you know, she probably said she hadn't done anything like that for a long time, you know. And there really wasn't -- she hadn't started an IV in a long time.
And I said, "It wasn't about that to begin with."
Q So do you know if Dr. Bautista had ever started an IV in a long time?
A No, I never talked to her about that.
Q When the Warden came to make the request to ask you to make the call to the doctor to come and assist, did you offer to help, say why don't you let me take a look?
A No, I did not.
Q Did anyone ask you to take a look?
A No.
Q Why not? Do you know why not?
A No one asked me to do anything like that.

Q Okay. And you didn't volunteer?
A No.
Q Any reason why you didn't volunteer to take a look and assist?
A Because I am not part of the team -- and I just don't feel like I am part of the team.
Q Well, Dr. Bautista isn't part of the team either; right?
A No.
Q Correct?
A No, she is not.
Q Yet you asked her to come over and help?
A Right.
Q I guess if you were willing to ask her, why were you not willing to try yourself?
A Because I do not partake in that, you know, of starting IVs.
Q Have you trained to start IVs?
A Yes, I am trained.
Q Are you more or less trained than Dr. Bautista?
A I don't know what her training is.
Q But you're a capable person in terms of starting an IV; correct?
A Yes.
Q You would know how to do it?

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A Correct.
Q You do it regularly?
A It has been a while since I started one, but, yes, I do.
Q So you would have no problem with that medical procedure?
A No. If I had to start an IV, I can probably do it.
Q So I guess I am wondering, and I guess what I am hearing you say, is you did not want to do it because you do not participate in the execution process; is that correct?
A That's correct. I do not participate in that.
Q And if asked to do so, would you be willing to do so?
A No.
Q So if the Warden made that request to you, "Nurse Clagg, we need you to come and take a look," would you have told him, "No, I am not doing that, Warden"?
A To come and take a look?
Q The very request that you made of Dr. Bautista. Would you have been willing to do what the Warden was asking you to make or ask Dr. Bautista to do?

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A To take a look, to see if I thought something -- I mean, that's part of --
Q Whatever the Warden was asking you to get Dr. Bautista for, whatever that was. Would you have been willing to do that yourself?
A I would say no.
Q And why not?
A Because I am not part of that execution.
Q Is that a matter of morals or principles or what?
A It is part of my license.
Q In what way?
A That we are to preserve life, not to participate in taking a life.
Q Okay. And you take that license obligation seriously?
A Yes.
Q Do you know whether Dr. Bautista has a similar obligation to her license?
A No, I do not know anything about her license.
Q You know she is a physician, correct?
A Yes.
Q Would you expect that she has got similar requirements that you as a nurse would have?
A I would say, yes.

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Q And is there really any question in your mind about that?
A No.
Q But it appears that you and the Warden were willing to ask her to participate; is that right?
A I asked her -- I asked her to look because he had asked me to make that phone call.
Q And you view that as an order from your boss, correct?
A Yes.
Q And --
A I don't know if you call it an order or not, but he asked me.
Q I know. But when your boss asks you to do something here at this institution, it is not your practice to tell him, no, I am not going to do it; is that correct?
A That's correct.
Q So the Warden says "I would like you to do this," even though it may not be, say, in the terms of "I am ordering you to do this," you view it as a direction that you need to comply with; correct?
A Yes.

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Q And that's the way you viewed this on the 15th, correct?
A Excuse me?
Q That's the way you viewed the interchange with the Warden on the 15th of September when he asked you to call the doctor; correct?
A Yes.
Q At any time -- Mr. Broom, I think, arrived at the institution on the 14th of September; is that correct?
A Yes.
Q Did you examine him at that time?
A I went over and did his intake exam, yes.
Q And what does that entail?
A It basically just -- the time they arrive, and if they have any medical problem, if they are on any medication, taking their vital signs. There is a mental health screening that we ask questions and that they answer basically "yes" or "no" to.
Q Okay. And did you do all of that with him that day?
MR. SWEENEY: Chuck, could take a look it documents to see if we can identify those, if you would, please

MR. WILLE: Which?
MR. SWEENEY: Let me start at bates page 524 of Exhibit 76.
Q (By Mr. Sweeney) Ms. Clagg, taking a look, if you could, at page 524. Do you see in the upper right-hand corner of the page, RB-00524?
A **Yes.**
Q Can you identify that document?
A **This is the initial mental/medical screening.**
Q And this would have been performed by you; is that correct?
A **Yes.**
Q On the 14th of September, 2009?
A **Yes.**
Q And it appears that you did this at approximately 11, what, 40 AM? 11:40 AM; is that right?
A **Yes.**
Q And so you actually spoke with Mr. Broom at that time?
A **Yes, I did.**
Q And when you wrote "no," that was because Mr. Broom responded "no" to the questions that you have checked "no"?
A **Yes. Because it says all information is based**

upon self-report of the inmate.
Q Understood.
A **So whatever -- whenever I ask the questions and they say "yes" or "no," that's what I mark down.**
Q Where you have checkmarks, is it your testimony that you asked him those questions?
A **Yes.**
Q It looks like everything is checked "no"?
A **Correct.**
Q Where there are checks, they're all "no" checks; correct?
A **Correct.**
Q Checks in the "no" box is probably the better way to say it.
All right. Did this mental health substance abuse screening take very long? How long does it take?
A **It doesn't take very long, no.**
Q 10 minutes, give or take? Five?
A **Maybe 10, because, you know, sometimes they hesitate and they have to think about some, you know, things.**
Q Yeah.
A **It's about 10, you know. I just read that and**

they say "yes" or "no," and then however long that it takes. Sometimes it is different with different people.
Q Was he cooperative with you?
A **Yes, he was.**
Q He wasn't giving you a hard time or anything?
A **No.**
Q Were you by yourself or was there somebody else with you?
A **There was people in the room.**
Q This would have been done at the cell front?
A **Yes.**
Q And we have all been looking at the holding cell diagram?
A **Yes.**
Q You would have actually been in the cell front in the Death House on the 14th doing this assessment?
A **Correct.**
Q Do you actually go in the cell or does this take place sticking, you know -- just through the glass?
A **There is like that little slot right there.**
Q So the conversation takes place in that manner?
A **Yes.**

Q I gotcha. Was Team Member 9, the phlebotomist, with you for this?
A **Yes.**
Q Was the Major -- was he present for this?
A **Yes.**
Q Anybody else that you can recall?
A **There was someone sitting doing the typing.**
Q That would have been off to your left, at the computer there; correct?
A **Correct.**
Q Correct?
A **That's correct.**
Q Anybody else?
A **There was maybe someone sitting in a couple of chairs right there.**
Q Those would have been security guys keeping an eye on the inmate?
A **Yes.**
Q Anybody else?
A **No.**
Q Any other medical people besides you and the phlebotomist?
A **No.**
Q Okay. As part of this assessment at 11:40-ish AM on the 14th of September, did you assess his

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veins?
A **Yes, I just looked at them.**
Q And how did you do that? Just describe for the record how you did that.
A **I just looked at his arms, and No. 9 was also doing that.**
Q Okay. And how did you do that? Did you have him stick his arm through that lot slot?
A **Yes. I was just standing there.**
Q So he stuck his arms through the slot force for you two?
A **Like the arm and the other arm.**
Q One arm at a time?
A **Correct.**
Q Which arm -- do you remember which arm he did first?
A **No. Honestly.**
Q But he did one arm at a time?
A **Yes.**
Q And do you remember anything about your vein assessment? Anything at all that you can recall?
A **It just seemed like they were -- you could maybe feel them more on one side than the other.**

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Q Okay.
A **The Team Member 9 was -- I didn't lay any hands other than just to look. And that's what she said, so -- and I was looking with her.**
Q Okay. So Team Member 9 was actually using her fingers to touch the inmate's arms?
A **Yes.**
Q But you did not touch the arms?
A **No.**
Q Is there a reason why you didn't do that?
A **No. There is not a reason, no. I can do that. There was -- there is not a reason that I didn't do it, I just didn't do it.**
Q You were letting Team Member 9 do that?
A **Yeah. I mean, I was standing there and I was watching, but I didn't physically touch him. But there is not a reason why I couldn't have. I am not saying that.**
Q I understand. All right. And did Team Member 9 say anything to you about the veins, what she was feeling?
A **I think it was like -- like the one arm felt like it was better than the other one, or something. The one arm felt hard, I think that's the word.**

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Q Hard in the since that he has got muscular arms, or what?
A **I am not sure if that was the word, but other than the fact that he she really couldn't feel anything, to try to remember every word, I am trying to --**
Q I know you are doing the best you can. Did you guys make any notes of what you observed or what you determined on that day when you made that assessment?
A **No. It was just -- they typed it in the computer.**
Q They typed it in the computer?
A **I do believe they did, yes.**
Q And did you ever review what was typed, or not? Do you know what was typed?
A **No, I don't. I don't read that or --**
Q Let's take a look at Page 531, if we could, please, on Exhibit 76. These appear to be interdisciplinary progress notes; do you see that?
A **Yes.**
Q And it is also commonly referred to as a medical chart?
A **Yes.**

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Q And it appears that on September 14, 2009, at 11:35 AM, you made a note about reception of Mr. Broom; do you see that?
A **Yes.**
Q And this would have been the vital signs and other things you talked about, correct?
A **Yes?**
Q You also say, "see intake sheets"; do you see that written there?
A **Yes.**
Q What are you referring to? Is that the sheet we just looked at?
A **No. There is another sheet besides that one. The actual intake sheet is -- it is a transfer sheet, when they transfer in.**
Q Okay.
A **The sending institution fills out the top of it and the receiving institution fills out the bottom of it.**
Q I see. But it has really got nothing to do with the medical history of the guy; it is sort of a transfer sheet?
A **It is a transfer sheet, that it has for vital signs, if they complain of anything. It has got several boxes on it.**

Q Page 532. Is that what you are referring to?
A **Yes.**
Q So that's the transfer sheet?
A **Yeah, that's the transfer sheet.**
Q Okay. And this is below the dark line that runs basically midway through the page across the page. Is that your handwriting below that line?
A **Yes.**
Q I see. Okay. So you recorded some of the vitals and made an assessment. And he was in no acute distress, cooperative during the interview; correct?
A **That's correct.**
Q Those were the notes you made?
A **Correct.**
Q Now, I guess what I am asking -- you made the vein assessment right about this same time or shortly after 11:35 AM; is that correct?
A **Yes.**
Q All right. And then I guess you didn't record any of those notes on this chart; correct?
A **Record any of the --**
Q Any of your observations or conclusions concerning the vein assessments?

A **No, I did not write that in here, no.**
Q Any reason?
A **No. I guess they had put it in the computer and I didn't write that down, no.**
Q I am looking at the timeline, which if you could take a look, please, at Page 310 in the exhibit. Chuck will direct you to that.
It appears at approximately 11:49 on the 14th of September 2009, there is a note there; do you see that? Medical staff at cell front doing a vein assessment on Inmates Broom, coma, veins appear to be accessible in right arm, left arm appears to be not as visible or palpable. Do you see that?
A **Yes.**
Q Did I read that correctly?
A **Yes. Yes.**
Q That would be referring to the assessment that we are talking about; is that correct?
A **Yes.**
Q And is that your recollection of what you and Team Member 9 certainly observed on that day and time, that the veins appear to be accessible on the right arm but on the left arm they appear to be not as visible or palpable?

A **Correct.**
Q Does that mean that those observations that we just described, you know, not being as visible or palpable, does that mean that there will be difficulty getting an IV started or not?
A **That would maybe be possible that it would be hard to start one.**
Q Okay.
A **I mean, you know, she just basically just felt the arm. Sometimes you can't feel the veins and sometimes you can.**
Q So the fact that they may not be as visible or palpable could mean that they may be hard to start, correct?
A **Correct.**
Q And it could also mean that they may be hard to start?
A **Correct.**
Q It is just going to depend on what happens when you try?
A **Yes.**
Q Because people can present with veins that you can't see?
A **Right.**
Q But as a nurse or medical practitioner, there

are ways that you can get those little things to pop up; right?
A **Right.**
Q Using tourniquets and tapping and things like that?
A **Correct.**
Q All right. So other than this assessment of Mr. Broom's arms and veins that you were at least participating in and observing on September 14, 2009, sometime before noon that day, did you ever participate in any other assessments or observations of Mr. Broom at all?
A **No.**
Q So that was the only one?
A **I don't recall, no.**
Q Is that correct, that was the only time?
A **Yes,**
MR. SWEENEY: All right. Thank you. Those are all of the questions I have.

EXAMINATION

BY MR. BOHNERT:

Q I will be very quick, and I promise I am being honest when I say that. I am Allen Bohnert, like I said earlier. Like I said, I will be brief. We have some reports that some members of the press were told by some people, some persons we don't know, from the prison -- and this is on the 14th of September -- these members of the press were told by some people from the prison that the prison people expected problems getting an IV or expected some vein problems with Mr. Broom's left arm.

Does that sound -- is that something that you would agree with, that the assessment would have led to that conclusion?

A I think I am understanding you right here. You just want to know that they thought by this here that there was going to be problems with the left arm; is that what?

Q Just that as a result of this assessment?

A Um-hum. (Affirmative)

Q There was an understanding by somebody or somebodies that there was possibly going to be a problem getting an IV access, setting an IV on the left arm; would that be accurate?

A Yes.

Q Do you know who said anything to any member of the press?

A No. That was why I was confused, if that's what you were going to ask me. No. I know nothing about the press. We -- I don't talk to anybody like that.

Q Okay. You are anticipating my --

A I am not in that at all. That's what I thought you were going to ask me if I did that.

Q You are one step ahead of me. I was going to ask whether it was formally or informally, whether you said anything about that?

A No.

Q Did you tell anybody?

A No.

Q About the fact that your assessment was that there may be problems with the left arm?

A No, I did not.

MR. BOHNERT: Okay. I promised that I would be brief, and I have no further questions.

MR. BOHNERT: Chuck, what did we forget? Did we forget something?

MR. WILLE: No. I have no questions.

MR. BOHNERT: Thank you ma'am.

(The deposition concluded at 3:11 PM.)
(All exhibits retained by counsel)

STATE OF OHIO :
COUNTY OF ROSS : SS:

I, Jennifer L. Berry, Registered Professional Reporter and a notary public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Roseanna Clagg was by me first duly sworn to testify to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by her was by me reduced to stenotype in the presence of said witness, afterward transcribed by computer; that the foregoing is a true and correct transcript of the deposition so given by her; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by an attorney or party hereto, or financially interested in the outcome of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office in Chillicothe, Ohio, on this 8th day of October, 2009.

My commission expires
February 21, 2011 ________________________
JENNIFER L. BERRY, RPR
NOTARY PUBLIC IN AND FOR THE
STATE OF OHIO

STATE OF OHIO :
COUNTY OF ROSS : SS:

I, Jennifer L. Berry, Registered Professional Reporter and a notary public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Roseanna Clagg was by me first duly sworn to testify to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by her was by me reduced to stenotype in the presence of said witness, afterward transcribed by computer; that the foregoing is a true and correct transcript of the deposition so given by her; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by an attorney or party hereto, or financially interested in the outcome of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office in Chillicothe, Ohio, on this 8th day of October, 2009.

My commission expires
February 21, 2011

JENNIFER L. BERRY, RPR
NOTARY PUBLIC IN AND FOR THE
STATE OF OHIO

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